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EXAMINER

ROBINSON, GRETA LEE

| ART UNIT | PAPER NUMBER |
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2177

DATE MAILED: 07/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/855,090

**Applicant(s)**

KRAFT ET AL.

**Examiner**

Greta L. Robinson

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 1-24, 26 and 27.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24, 26 and 27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1--24, 26 and 27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Claims 1-24, 26 and 27 are pending in the present application.
2. Claim 25 has been cancelled; and claims 1-5, 8, 9, 20-22 and 24 have been amended.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-24, 26 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Barber et al. US Patent 5,579,471.

Regarding claims 1-8, **Barber et al.** teaches a method of providing a query, the method comprising the steps of:

selecting at least one non-textual language independent visual representation of a search object on a display;

dropping the at least one non-textual language independent visual representation of the search object on a display onto at least one non-textual language independent visual representation corresponding to a domain object on a display; and in response to

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the dropping step, providing a query **[note: column 1 lines 24-39; column 5 lines 12-42; and figure 1]**. The citations have been provided below for convenience:

column 1 lines 24-39:

A recent advance **has freed the query function from language-based user operations**. Tools are available in menu-driven dialog interfaces which enable a user to **construct queries** by manipulating **icons** in a dialog box on a display screen. The **icons are arranged to symbolize database search requests**.

To date, database systems which store images have not provided an efficient means of searching a database by other than textual attributes of the images. However, this requires the expenditure of significant resources to annotate images with text. Furthermore, limiting queries to textual annotations forgoes the possibility of searching an image database by using pixel information from the actual images which are stored in the database.

Much work has been expended to enable digital computers to recognize images by features which they contain.

column 5 lines 12-42:

Another such window 24 is an image characteristic window containing, in a first embodiment, **a plurality of icons (hereinafter "thumbnails") 26 and 27**. The user interface further provides through the cursor control 21 the ability to control the cursor 15 by movement of the mouse 16. The cursor 15 is used in the first embodiment **to "drag and drop" thumbnails** from the image characteristics window 24 to the image query construction window 23. A thumbnail which has been dragged and dropped in the image query construction window 23 is indicated by reference numeral 28.

Once thumbnails have been dragged and dropped in the image query window 23, an option is selected denoting a RUN QUERY command represented on signal

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path 30. In response, the identification and locations of all thumbnails dragged to and dropped in the image query window 23 are provided to an image database management system 31 on a signal path 33.

The image database management system 31 includes a query-by-image-content (QBIC) engine 32 which receives the RUN QUERY command and thumbnail identification and location information and, using the information and thumbnail definitions stored at 34, constructs a query which is used to search image data representations stored at 35. The results of the search are used by the QBIC engine 32 to construct a result list of images satisfying the query parameters. The identifications of these images are used to obtain the identified images from a set of images stored at 36 and the images in the result list are provided to the window control 22 for display in a results window, which is not shown.

The limitations of claims 20-24, 26 and 27 parallel claims 1-8; therefore they are rejected under the same rationale.

The limitations of claims 9-19 have been addressed above except for the following: "a query formulator", "a result set manager" [note: QBIC engine 32 column 5 lines 29-42; and data processing system 10 figure 1].

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-24 and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bergman et al. US Patent 5,909,678 in view of Barber et al. US Patent 5,579,471.

Regarding claim 1, **Bergman et al.** teaches a method of providing a query [note: “graphical user interface for constructing queries” col. 2 lines 41-50], the method comprising the steps of;

selecting at least one non-textual language independent visual representation of a search object on a display [note: col. 2 lines 51-64];

dropping the at least one ... visual representation of the search object on a display onto at least one ... visual representation corresponding to a domain object on a display [see: col. 2 lines 51-64]; and

in response to the dropping step, providing a query [note: col. 3 lines 6-56; abstract; col. 10 lines 55-65].

Bergman et al. teaches a computer system, method and program product for constructing queries by selecting iconic representations of subcomponent statements and dragging and dropping the icon onto a template. Bergman et al. does not specify that the visual representation be a non-textual language independent visual representation. **Barber et al.** teaches this feature [note: column 1 17-39; also see column 5 lines 1-42]. It would have been obvious to one of ordinary skill at the time of the invention to have combined the cited references because Bergman et al. teaches that constructing queries by dragging and dropping iconic representations may be implemented various ways [see column 12 lines 26-41].

7. Regarding claims 2-8:

(Claims 2-5) in response to the provided query, searching at least one collection of information ... the result set object indicates whether at least one match was found as a result of the search, note Bergman et al. col. 12 line 55 through col. 14 line 10.

(Claims 6-8) further comprising the steps of formulating a text search query ... sending the text search query to at least one search engine note Bergman et al. figure 6; col. 13 lines 7-8.

8. The limitations of claims 20-21 have been addressed above in claims 1-2; therefore they are rejected under the same rationale.

9. The limitations of claims 22-24, 26 and 27, have been addressed above except for the following: "a graphical user interface" and "a visual search query application" [see: abstract; col. 15 lines 11-56; col. 5 lines 57-58; and col. 4 lines 10-33].

10. Regarding claim 9, Bergman et al. teaches a system comprising:

a graphical user interface [col. 5 lines 57-58 "the graphical user interface of this invention enables the construction of content based queries"];

a graphical user interface manager communicatively coupled to the graphical user interface [figure 9; col. 5 lines 15-27, also note col. 12 lines 21-25];

a query formulator, communicatively coupled to the graphical user interface manager .. to provide a query" [note: figure 9, col. 5 lines 15-27; col. 12 lines 21-25];

a query initiator ... a lookup system ... a result set manager [col. 6 lines 13-47; col. 8 lines 29-44]. Bergman et al. does not explicitly show a query initiator; however Bergman et al. does permit integration of a variety of graphical user interface techniques in a single query interface to produce the search result [see col. 8 lines 14-17]. It would have been obvious to have used a query initiator in Bergman et al in order to build up the query and subcomponents of the query as taught in Bergman et al.. Bergman et al. does not specify that the visual representation be a non-textual language independent visual representation. Barber et al. teaches this feature [note: column 1 17-39; also see column 5 lines 1-42]. It would have been obvious to one of ordinary skill at the time of the invention to have combined the cited references because Bergman et al.



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teaches that constructing queries by dragging and dropping iconic representations may be implemented various ways [see column 12 lines 26-41].

11. Regarding claims 10-19:

wherein the graphical user interface manager structured to receive at least one user initiated command ... lookup system ... event stacker ... structured to correlate an at least one search result ... [note: col. 6 lines 40-64; col. 8 lines 34-48].

### ***Response to Arguments***

12. Applicant's arguments with respect to claims 1-24, 26 and 27 have been considered but **are moot in view of the new ground(s) of rejection.**

**In the response Applicant argued** that the claims have been amended to clarify that the search is conducted through non-textual language independent representations, and that Bergman et al. teaches the use of text based icons and templates when formulating queries. **Applicant is correct** Bergman et al. does use text based icons; but he also teaches alternate implementations may be implemented through object definition see column 12 lines 18-40; also note column 11 lines 20-41; column 2 lines 41-55. Bergman et al. has been combined with newly cited reference Barber et al. **who specifically notes that the icons are used to free the query function from language-based user operations** [see column 1 lines 24-25]. Note Barber et al. was cited on form PTO 1449 paper number three filed May 14, 2001.

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Applicant's arguments and amendment overcome the drawing objection cited under 37 CFR 1.83(a) and claim rejections cited under 35 USC 112 second paragraph.

***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greta L. Robinson whose telephone number is (703) 308-7565. The examiner can normally be reached on Mon.-Fri. 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene can be reached on (703) 305-9790. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**GRETA ROBINSON**  
**PRIMARY EXAMINER**

Greta Robinson  
Primary Examiner  
July 2, 2004